

Application No.: 10/732,959 (K-C Docket No. 16,514)

Response to Office Action mailed on July 31, 2006

Remarks

Claims 43-57 remain in the Application. Claims 43, 45, and 50 are amended. Claims 24-42 and 58-62 are withdrawn from prosecution and cancelled without prejudice.

1. Restriction under 35 U.S.C. § 121.

The Patent Office requires an election of claims, between the following Groups:

- I. Claims 1-13, drawn to an elastomeric article having a latex substrate impregnated with elastomeric fibers, classified in class 2 or 604 or 428 or 36, subclass various.
- II. Claims 14-23, drawn to an elastomeric article combined with a mat, classified in class 442 or 428, subclass various.
- III. Claims 43-57, drawn to an elastomeric article having polymeric layer covering an elastic substrate, classified in class 442, subclass 182.
- IV. Claims 58-62, drawn to an elastomeric article having a mat coating an elastomeric latex substrate, classified in class 442, subclass 328+.

During a telephone conversation with Karl Sidor on 7/14/06, a provisional election was made without traverse to prosecute the invention of Group III, claims 43-57. Applicant hereby affirms this election. As required, Applicant further elects to prosecute a glove, as a single species from claim 56. Claims 24-42 and 58-62 are withdrawn from further consideration, 37 CFR 1.142(b), as being drawn to a non-elected invention.

2. Rejection under 35 U.S.C. § 112.

The Examiner rejects claims 44, 45, 46, 50, 53, and 55 under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement. In rejecting a claim under 35 U.S.C. § 112, first paragraph, for lack of adequate enabling support, the Examiner is charged with the initial burden of providing technical reasoning and/or objective evidence to support the conclusion that one of ordinary skill in the art would not have been able to practice the claimed invention, armed with the supporting specification, without undue experimentation.

Applicant contends that the specification adequately discloses the invention and how it can be put into practice. Support for the claimed subject matter is located throughout Applicant's specification in both the graphical and written description. In particular, with respect to claim 44, the specification describes a variety of conventional elastic, thermoplastic polymer fibers. Such fibers are extruded through a plurality of fine usually circular or rounded capillary dies. The extrusion process confers each fiber its shape and configure these hot fibers to have a standard conformation when formed. As generally understood by

Application No.: 10/732,959 (K-C Docket No. 16,514)

Response to Office Action mailed on July 31, 2006

those in the art, the conformation typically is rounded or largely circular in cross-section. Description of these conventional fibers is found on pages 6 and 7 of the specification. Claim 44 further recites that the standard conformation is deformed. With regard to claim 45, while not every embodiment is required to be disclosed, the specification clearly discloses exemplary embodiments that are within the claimed range (e.g., Figs. 2 and 3, p.2, line 18-22; p.18, lines 26-30 to p.19 line 5). Fig. 1, and p. 17, lines 25-30 to p. 18, lines 1-2., p. 19, lines 3-5, show support for the subject matter of claim 46.

Claims are not required to use the exact, literal language of the specification, as long as one of skill in the art comprehends the claimed limitations. Claims 53 and 55, respectfully, derive from and paraphrase claims 5 and 7 as originally filed – “about one times to about two times” is substantively “about 100% to about 200%” or “about one quarter to about one times” is substantively “about 25% to about 100%.” (Nevertheless, if the Examiner requires, Applicant is willing to restate the claims using the language from claim 5 and 7 as originally filed.)

Applicant submits that there is ample support for the claims as they currently stand, and no new matter has been introduced. Given the foregoing explanation, Applicant fails to see how one having ordinary skill in the art would be unable to practice the claimed invention, armed with the supporting specification. Accordingly, it is the Applicant's position that the objection to the specification is untenable and should be withdrawn.

The Examiner rejects claim 50 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has rewritten claim 50, in accordance with support at p. 17, lines 30 to p. 18 lines 1-2, and p. 19, lines 5-6. As now written, the claims distinctly claim the invention, and Applicant requests that the rejection be withdrawn.

3. Rejection under 35 U.S.C. § 102.

The Patent Office rejects claims 43, 51, and 57 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,527,580 (Ikeda). The Patent Office alleges that Ikeda teaches a rubber article with a polymer sheet bonded to a surface of the article. Further, the Patent Office rejects claims 43, 47, 50, 56, and 57 under 35 U.S.C. § 102(b) as being anticipated by EP 0427942 (Stokes). The Patent Office alleges that Stokes teaches an elastomeric saturated nonwoven material (blanket or sheet) comprising an elastic nonwoven rubber (includes polyurethane, natural rubber, NBR, SBR, etc), and a polymeric material which impregnated (which covers) the nonwoven rubber web.

Respectfully, Applicant argues that the two references cited do not anticipate the claimed invention. To anticipate under 35 U.S.C. § 102, a patent reference must “describe” every element recited

Application No.: 10/732,959 (K-C Docket No. 16,514)

Response to Office Action mailed on July 31, 2006

in the claims at hand. The references neither disclose nor suggest the claimed elements of Applicant's invention. First the Ikeda reference discloses a rubber stopper for the mouth of a vial. The stopper has a sheet of polyethylene having an average molecular weight of 1,300,000 to 8,000,000, which is thermally ramified and partially crosslinked with the rubber. A rubber stopper is not even remotely in the same area of art as Applicant's invention as claimed. There is no description of "thermoplastic polymeric fibers either covering or partially integrated with at least a portion of the latex substrate," nor that the polymeric fiber "deforms, spreads out, and creates a near continuous interface with the latex substrate."

Applicant submits that the Stokes reference is distinguishable from the present invention. Due to an unfortunate imprecision in selecting and using the word "impregnated" in the claims, some confusion has arisen with regard to Applicant's intended meaning of the term vis-à-vis in the Stokes reference. As used in the Stokes reference, the term "impregnated" means to fill throughout or saturate the interstitial voids of the fiber web, or to permeate fiber with a treatment or other chemical substance. As with Applicant's invention, the descriptive intent is better conveyed by the terms "embedded" or "integrated." The polymer fibers are at least partially entangled or integrated with the surface of an elastomeric material. To correct this imprecision and misunderstanding, claim 43 has been amended to state that the "polymer fibers either covering or partially integrated with at least a portion of said latex substrate" (p. 20, lines 8-10). The Stokes patent does not describe or teach partially integrating the fiber with the elastomeric substrate.

3. Allowable Subject Matter

Applicant thanks with appreciation the Patent Office for indicating that claims 45 (44, 46-49, and 52-55) would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, set forth in this Office Action. Applicant believes that the foregoing remarks and amendments have overcome this rejection and the claims are now allowable.

4. Conclusion

In view of the remarks above, Applicants respectfully submit that all of the presently presented claims are in condition for allowance. Applicants believe that the present Response requires a three-(3)-month extension of time to make it timely. Applicants respectfully request the Office grant such time pursuant to 37 C.F.R. 1.136(a) as necessary to make this response timely, and hereby authorize the Office to charge any necessary fee or surcharge with respect to time extension to the Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

Application No.: 10/732,959 (K-C Docket No. 16,514)


Response to Office Action mailed on July 31, 2006

Please direct any questions or comments to Vincent T. Kung at: tel. 770-587-8606.

Respectfully submitted,

Kaiyuan Yang *et al.*

By:



Vincent T. Kung

Registration No.: 45,797

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (571) 273-8300 on January 30, 2006.

By:



Laura L. Rubino

Laura L. Rubino